Jewish Response to the
Spring 2017 McGinley Lecture
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What does it mean to judge justly? I would like to reflect on this question by sharing three rabbinic aggadot, narratives, about God. The first two are found in the Babylonian Talmud, a complex legal work produced in Sasanian Babylonia in the fifth through seventh centuries CE, and the third is from Genesis Rabbah, a fifth-century rabbinic commentary on the book of Genesis composed in Roman Palestine. In each of these rabbinic stories, God is personified in human terms, navigating a complicated world in which the idea of what it means to judge justly is itself a matter of debate and discussion. Rather than offer an answer to my question – what does it mean to judge justly? – or to settle on a definitive conclusion, I hope that these texts will allow us to continue to ask complex questions about what justice in judgment might entail, and how we, as human beings, might pursue justice.

(1) The Seat of Justice and the Seat of Mercy

The first narrative playfully reflects on God’s daily schedule. The rabbis wondered: might we imagine that God operates within the strictures of human time? And, if so, what might God do all day long?

Rav Judah said in the name of Rav: The day consists of twelve hours; during the first three hours, the Holy One, blessed be He, sits and occupies Himself with the Torah; during the second three hours, He sits and judges the whole world, and because He sees that the world is so guilty as to deserve destruction, He stands up from the seat of justice (din) and sits on the seat of mercy (rahamim); during the third quarter, He sits and feeds the whole world, from the horned buffalo to the brood of vermin; during the fourth quarter, He sits and laughs with the Leviathan… [after the destruction of the temple, when God no longer laughs.] what then does God do in the fourth quarter? He sits and instructs the school children.¹

This divine schedule is based on the division of the day into twelve hours; the night, too, was divided into twelve hours, as the remainder of the narrative goes on the explain as well. Each set of three hours is then considered its own unit of time, creating four distinct segments of the day. This system mirrors the Roman division of nightly hours into four watches (vigiliae).

God’s schedule, as it is imagined in this rabbinic text, gives us a sense of what the rabbis thought were the most important tasks – so important that, without God devoting time to each of them daily, the world would not exist. So what does God do? Before all else, God studies Torah – that is, God pursues wisdom and understanding. Second, God judges the world with a
combination of justice (din) and mercy (rahamim). Third, God feeds all the world’s creatures – that is, God pursues social welfare. Finally, God educates children (in this case, commentators suggest that God educates children who have passed and find themselves in heaven – God takes full responsibility for their education rather than delegating it to others).

What I would like to focus on, however, is the second part of God’s day. We read that, daily, God “sits and judges the whole world.” The problem is that when God applies only strict justice to the world, the verdict is too harsh because, inevitably, humanity will deserve to be completely wiped out. God’s solution, then, is to stand up, gain perspective, and consider the world through the lens of mercy. Once God has taken mercy, we can proceed to the next segment of the day, in which God translates the abstract attribute of mercy into action by feeding the world’s inhabitants. Applying mercy to justice, then, is not portrayed simply in theoretical terms, but rather as the basis for a certain type of ethic of care.

(2) Praying for Mercy in the Act of Judgment

The second rabbinic narrative wonders whether God prays, and if so, for what God might pray. We read as follows:

Rabbi Yohanan says in the name of Rabbi Yose: How do we know that the Holy One, blessed be He, says prayers? Because it says: “Even them will I bring to My holy mountain and make them joyful in My house of prayer (beit tefilati)” (Isaiah 56:7). The verse does not say “their prayer,” but rather “My prayer,” hence [we learn] that the Holy One, blessed be He, says prayers. What does God pray? Rabbi Zutra ben Tobi said in the name of Rav: ‘May it be My will that My mercy (rahami) may suppress My anger, and that My mercy may prevail over My [other] attributes, so that I may deal with My children in the attribute of mercy (be-midat rahamim) and, on their behalf, stop short of the limit of strict justice (shurat ha-din).”

This narrative interprets the phrase beit tefilati in Isaiah 56:7 not as “My house of prayer,” but rather, following the Hebrew more literally, as “The house of my prayer.” In this interpretation, God’s temple is not (only) a place of human prayer to the divine, but also a place of divine prayer itself. This narrative thus advances a remarkable insight: the rabbis claim that God requires prayers and meditation as a self-regulating practice. The house of prayer – whether the tabernacle, the temple, or, in the rabbis’ era, synagogues – is thus a place of human as well as divine worship and contemplation.

With this first interpretation in mind, the passage asks a follow up question: if, in the passage from Isaiah, God calls the temple the place of God’s prayers, then for what could God possibly be praying? Another rabbi, Rabbi Zutra ben Tobi, offers a suggestion: God prays reflexively, beckoning to allow God’s mercy to overcome anger and all other divine attributes so that, in the end, God can deal with God’s children mercifully rather than through strict justice. The assumption, as in the previous story, is that if God were only to apply a narrow form of justice to the world, there would be no option but to destroy the people. God thus prays for mercy, to counter-balance divine instincts of justice, which the text parallels with – and presents
as the consequence of – unchecked anger.

Again, the implication of this rabbinic reflection on God’s attributes is that strict justice (din) – implying fairness, impartiality, and the correct application of the law (jus) – is only one component of a greater societal goal, which is the discerned and measured balance between justice and mercy.

(3) Combining Mercy and Justice in a Single Vessel

The third rabbinic narrative most explicitly argues for the merging of mercy and justice. In the second half of Genesis 2:4, we read: “In the day when the Lord God made the earth and heavens…”³ The midrash thus asks: why does the biblical text refer to God as “Lord God” (yhw elohim), rather than simply as “God” (elohim), as it had done in the first chapter of the book of Genesis? This is the first time that this specific divine name is used in the Bible, and so the midrash wonders why the text invokes doubled nomenclature. In its answer, the midrash uses an analogy of a human king:

“The Lord God” (Genesis 2:4) can be compared to a [human] king who had empty cups. The king said: ‘If I put hot water into them [the cups], they will burst. [If I put] cold water [into them], they will crack.’ What did the king do? He mixed the hot water with the cold, filled them [the cups] and they stood. Thus said the Holy One, blessed be He, ‘if I create the world with the attribute of mercy (midat ha-rahamim), there will be too much sin, and [if I create the world] with the attribute of justice (midat ha-din), how will the world stand? Rather, I will create it with the attribute of justice and the attribute of mercy, and would that it will stand!”⁴

Here, again, the rabbis contemplate the merits and liabilities of justice and mercy.⁵ Justice and mercy seem to represent radical extremes: order and chaos, suffocating restriction and unbounded freedom. Each, on their own, is assumed to be so dangerous that it will shatter, crack, or deform the world. According to the logic of the midrash, unchecked mercy, without the counterbalance of justice, will lead to unabated sin. Strict justice without any mercy, on the other hand, does not tolerate any human error. Either attribute, in its extreme form, is destined to destroy the world. Justice and mercy – in dialogue and in moderation – the midrash argues, is the only way for the world to balance between order and chaos, sin and punishment, fairness and generosity.

While in the first two narratives, both from the Babylonian Talmud, the primary concern is to mitigate strict justice with a measure of mercy (God rises from the seat of justice to occupy the seat of mercy, and God prays for mercy to temper anger), this narrative from Genesis Rabbah presents justice and mercy as equal and parallel divine attributes that must be combined. Rather than choosing one over the other, God ultimately mixes the two – presumably in equal measure – and judges with a commitment to both. Returning to the midrash’s initial question about Genesis 2:4, we now understand that these rabbis interpret God’s doubled name, “Lord God,” as signaling God’s twinned and fully integrated attributes, justice and mercy.
(4) Conclusions

All three narratives present us with very human depictions of God: God operates within seemingly human schedules of time, observing the hours of each day; God not only prays, but does so in the same sacred space as humans who pray to God; and God as creator is likened to a human king who pours water and fears that the vessels might shatter in the process.

In her work on rabbinic law and literature, Suzanne Last Stone explains why the turn to midrash – rabbinic exposition of scripture – offers legal scholars a helpful framework through which to reimagine the possibilities of law and legal theory. She writes: “Midrash is neither fiction nor legal exegesis; neither abstract legal theory nor psychology. Rather, it is the law made fluid through a literary investigation of the emotional dynamics that underlie legal and moral concepts.”

In my reading, these narratives are attempts, by the rabbis of late antiquity, to make sense of their world – its beauty and joy, its suffering and tragedy, its seeming injustices – and to offer a coherent explanation of what, on all accounts, is an incomprehensible reality. If there really is a God who privileges justice, the rabbis wager, then that God would long ago have destroyed humanity, rather than providing so much for which to be grateful. If that God, however, were a purely merciful God, how then could there be so much unexplained and random suffering? The answer with which these rabbis seem most satisfied is that God navigates, perhaps imperfectly, between the competing values of justice and mercy, punishing but also forgiving. The rabbis do not apply this schema to individual suffering (say, when addressing matters of theodicy), but rather to God’s treatment of Israel or of humanity in a more collective or cosmic sense.

We can also, though, interpret these texts not only for what they reveal about rabbinic theology and understandings of the divine, but also for what they tell us about how the rabbis understood human action and negotiated their own conceptions of human justice and judgment. The rabbis, after all, were legal authorities within their Jewish communities. According to their texts, they served as judges for matters over which they had jurisdiction (though this literature was composed in eras and locations in which Jews were minorities, and thus subject to many of the laws of the land, Roman and Sasanian, and later Christian and Islamic). The rabbis composed vast amounts of legal literature, and devoted their time to analyzing and updating biblical law for their own settings. Their projections of justice and mercy onto the divine, then, can also be understood from their perspectives as judges, jurists and the producers of Jewish law. God models for human legislators and judges – and for all human beings – that meting out judgment is not a self-evident or straightforward endeavor, but rather a fraught and complicated task, and that careful navigation between strict justice and mercy, both of which they understand to be essential if competing values, is needed in the creation of a just society.

Indeed, in these narratives, God navigates the same complicated values that we face today: are we too harsh or too lenient in our judgments of others, either individually or collectively as a society? Some of the most important debates in which our country is currently embroiled – about immigration, about incarceration, about addiction – revolve around negotiating strict justice on the one hand and mercy on the other. In these rabbinic sources, God does not have all the answers. Rather, God plays musical chairs, alternating between the seats of
justice and mercy, continually reevaluating where is most productive to sit, and reminding us how perspectives change from each new vantage point. God models, through the rabbinic story, that we too ought to play musical chairs. Which seat do we choose to occupy, and when?

Throughout this response, I have been using the term “justice” in two senses: in the narrow sense of fairness or equitability (the rabbinic din), and in the expansive sense of what it means more fully to be just. I would argue that, according to the rabbis behind these stories, it takes a combination of both din, justice in its narrow sense, and rahamim, mercy, to achieve true Justice with a capital “J.” It isn’t easy – even God, in these rabbinic narratives, struggles to maintain a healthy balance – but it is necessary for the creation of a just society, in which every individual is judged justly and judges others justly.

The midrashim remind us that the stakes are high. They argue that the world cannot be sustained – indeed, it will literally be destroyed – without a commitment to both justice and mercy.

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1 Bavli Arodab Zarah 3b (trans. Soncino, with modifications). This passage appears towards the end of a far longer narrative, which is analyzed at length in Jeffrey Rubenstein, Talmudic Stories: Narrative Art, Composition, and Culture (Baltimore: Johns Hopkins University Press, 1999), 212-242. I also discuss this narrative in my doctoral dissertation, Sarit Kattan Gribetz, “Conceptions of Time and Rhythms of Daily Life in Rabbinic Literature, 200-600 C.E.” (Ph.D. diss., Princeton University, 2013). I retain the masculine pronouns for God in my translation of the rabbinic sources, to preserve their intended meaning, but I refrain from doing so in my own words.

2 Bavli Berakhot 7a (trans. Soncino, with modifications).

3 NRSV.

4 Genesis Rabbah 12:15, trans. my own; cf. Marcus Jastrow, A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature (New York: Putnam’s Sons, 1903), 186. As I was preparing this response, I read the insightful piece by Ben Greenfield, “One Throne for Justice, One Throne for Mercy: The Radical Rabbinic Metaethic of a Value Pluralist God,” which puts some of these sources in conversation with more contemporary thinkers about competing values. The essay is available at http://www.rrc.edu/sites/default/files/primary_navigation/ethics/Greenfield%20Whizin%203%2022%2016.pdf <accessed 28 March 2017>.

5 The possibility inherent in the distinction between mercy and justice (as well as other attributes of God) for imagining more than a single divinity, especially in the act of creation, was never far from the rabbis’ concerns, and thus rabbinic discussions about multiple divine attributes often also address questions about heresy, on which see Alan F. Segal, Two Powers in Heaven: Early Rabbinic Reports About Christianity and Gnosticism (Leiden: Brill, 2002), 98-108.

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